

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ALLEN H. SINSHEIMER	)	
2306 S. Columbus Street	)	
Arlington, VA 22206	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
U.S. DEPARTMENT OF	)	
HOMELAND SECURITY /	)	
	)	
U.S. CITIZENSHIP AND	)	
IMMIGRATION SERVICES	)	
425 Eye Street, NW	)	
Washington, DC 20536	)	
	)	
and	)	
	)	
U.S. DEPARTMENT OF JUSTICE	)	
950 Pennsylvania Avenue, NW	)	
Washington, DC 20530-0001	)	)
	)	
Defendants.	)	

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**COMPLAINT FOR INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act, 5 U.S.C. §552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from plaintiff by defendant U.S. Department of Homeland Security, (DHS) U.S. Citizenship and Immigration Services and by its predecessor the Department of Justice (DOJ), Immigration and Naturalization Service (INS).

**JURISDICTION AND VENUE**

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. §1331. Venue lies in this District under 5 U.S.C. §552(a)(4)(B).

3. Plaintiff, Allen H. Sinsheimer is an individual and an employee of the Department of Homeland Security, Immigration and Naturalization Service. He is a resident of the Commonwealth of Virginia, residing at 2306 South Columbus Street, Arlington, Virginia, but his place of employment is in Washington, DC.

4. Defendant Department of Homeland Security is a Department of the Executive Branch of the United States Government, and includes the component entity U.S. Citizenship and Immigration Services (formerly part of the Department of Immigration and Naturalization Service). The Department of Homeland Security is an agency within the meaning of 5 U.S.C. §552(f), with its principal offices in the District of Columbia.

5. Defendant Department of Justice is a Department of the Executive Branch of the United States Government, and prior to the INS becoming part of the Department of Homeland Security included component entities Immigration and Naturalization Service. The Department of Justice is an agency within the meaning of 5 U.S.C. §552(f).

### **FACTS**

6. During the time period from 2000 through 2002, the Immigration and Naturalization Service, predecessor to the U.S. Citizenship and Immigration Service conducted at least three investigations regarding the Plaintiff. Two of the investigations were related to Equal Employment Opportunity Complaints brought by fellow INS employees Georgia Mayers and Barbara Lockhart. These investigations were conducted by the INS EEO office and its agents and

contractors. A third investigation was brought independently by the Office of Internal Audit.  
(INS/OIA)

6. Commencing on or around April 2002, Plaintiff has repeatedly requested in writing that the INS/OIA provide him with all materials of both Legacy INS Office of Internal Audit Investigatory Unit Reviews and the EEO Office investigations of Plaintiff dealing with the allegations brought against him by Georgia Mayers and Barbara Lockhart.

7. Following repeated requests, on May 16, 2003 Plaintiff received some documents which were allegedly responsive to his request; however he alleged in an e mail to David A. Yentzer, Director, Office of Administration, that he considered the response of INS/OIA deficient and pointed out with particularity the documents which were missing from his ongoing request. Specifically, Plaintiff noted that he had received nothing on the OIA Criminal Unit Investigation of him, none of the affidavits given by his co-workers and not even the personal testimony that plaintiff had provided under oath, after being informed that he had no alternative but to participate in the investigation. He also alleged in his May 19, 2003 e mail that he had not received anything regarding the EEO Complaint which had been filed by Ms. Lockhart and which alleged that plaintiff had engaged in sexual harassment against her, which allegations plaintiff has denied. Of the material which had been provided to him, regarding the Report of Investigation (ROI) of the Equal Employment Opportunity Complaint of Georgia Mayers, INS case no. I-01 -H010, 84 of the 99 pages of the report were redacted, without explanation. In addition, portions of the remaining 15 pages were redacted as well.

7. Following repeated written requests for the information by plaintiff, on September 15, 2004, by letter from Michael K. Cameron, Chief, Commercial Law Division, Department of

Homeland Security Immigration and Customs Enforcement, Plaintiff was informed that the Agency acknowledged Plaintiffs appeal of the agency's withholding of the requested documents, and noted for the first time that the Freedom of Information Act authorized Plaintiff to treat the Defendant's failure to act on his request within the specified time limit as a denial thereof, and informed him that at this point he could bring an action in the appropriate federal court. Plaintiff therefore is bringing this action pursuant to that notification. **(Attachment 1)**

8. Plaintiff has reason to believe that if the material sought is released to him, that it may well demonstrate a violation of the Privacy Act, in that inaccurate and untrue charges were disseminated about Plaintiff, in violation of the Privacy Act of 1974, 5 U.S.C. §552a et. seq.

**THE DEFENDANT'S FAILURE TO TIMELY COMPLY  
WITH PLAINTIFF'S REQUEST**

9. By form letter dated February 13, 2004, the INS responded to Plaintiff's request on the status of his pending FOIA request, which the Defendant acknowledged receiving on June 4, 2003. **(Attachment 2)**

10. To date, the INS has not provided the records requested by plaintiff in his FOIA request, notwithstanding the FOIA's requirement of an agency response within (20) working days.

11. Plaintiff has exhausted the applicable administrative remedies with respect to the FOIA request to the INS/OIA.

12. The INS has wrongfully withheld the requested records from the Plaintiff.

**THE INS PARTIAL DENIAL OF PLAINTIFF'S REQUEST**

13. On May 16, 2003 Plaintiff received via certified mail a partial response to his request for documents. INS did not state any reason for withholding the remaining documents.

14. On June 4, 2003 Plaintiff formally appealed this partial response.

15. To date, the Plaintiff has not received any of the additional documents which he has requested. More than 20 days has elapsed since his request.

16. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA request to INS.

17. The INS has wrongfully withheld the balance of the documents which Plaintiff has requested.

### **REQUESTED RELIEF**

WHEREFORE, plaintiff prays that this Court;

- a. order the Defendants to disclose the requested records in their entireties and make copies available to Plaintiff;
- b. provide for expeditious proceedings in this action;
- c. award Plaintiff his costs and reasonable attorneys fees incurred in this action, and
- d. grant such other relief as the Court may deem just and proper.

Respectfully Submitted,

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